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**AGENDA**

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Zoom Info:  
888 788 0099  
(Toll Free)  
Webinar ID: 817  
2612 2972  
Participant ID:  
482826

**BOROUGH OF WASHINGTON, WARREN COUNTY, NJ**

**January 25, 2022  
7:00 PM**

**STATEMENT OF ADEQUATE NOTICE**

The requirements of the Open Public Meetings Law, P.L. 1975, Chapter 231 have been satisfied in that adequate notice of this meeting has been published in the Express-Times and Star Ledger and posted on the Boroughs website stating the time, place and purpose of the meeting as required by law.

**ROLL CALL** Conry, Cox, Heinrich, Noone, Norris and Ron

**AUDIENCE/COUNCIL APPEARANCE**

Remarks, petitions, statements and testimony from guests

**DEPUTY MAYOR'S APPOINTMENTS-VARIOUS BOARDS**

**GREEN TEAM New 3-year appointment:**

David Butler Term: 01/04/2022-12/31/23

**Re-Affirm Green Team Members Terms:**

Elizabeth Dowd: Term 01/07/2020-12/31/22

Gary Pohorely: Term: 01/07/2020-12/31/22

David Butler Term: 01/04/2022-12/31/24

Joshua Melchor: 02/02/21-12/31/23 (Appointed 02-02-21)

Mayor & Land Use Board Rep-Vacant

Borough Manager-Matt Hall-Term: 01/4/22-12/31/22

Executive Director of the BID-Melanie Thiel-Term: 01/04/22-12/31/22 (one year term)

Council Member-Josephine Noone Term: 01/04/22-12/31/22 (one year term)

Shade Tree Commission-Suzanne Marr- Term: 01/07/2020-12/31/22 (one year term)

**Land Use Board Appointment**

Sonia Ron, Council Liaison

**BID Liaison**

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Josephine Noone

Diversity Committee

Seniors Committee

**NEW BUSINESS**

**DISCUSSION(s):**

- Solid Waste fees.
- Property off of South Lincoln to be donated to Habit of Humanity to build a home for a Veteran.
- New digital sign for front of building.
- Discussion of the cannabis zoning ordinance, specifically the retailer buffer requirements
- Approval of a performance bond agreement for the Taco Bell site.

**OLD BUSINESS**

**Correspondence-Attorney Leslie Parikh:** New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (Bill No. S21) - Zoning and Other Regulations for Marijuana Dispensaries and Growing Facilities

**RESOLUTIONS**

**RESOLUTION 2202-21**

RESOLUTION AUTHORIZING 2022 PROFESSIONAL SERVICES CONTRACT WITH WINEGAR WILHELM, GLYNN & ROEMERSMA FOR PUBLIC DEFENDER SERVICES

**RESOLUTION 2022-22**

RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE

**RESOLUTION 2022-24**

CASH PERFORMANCE BOND AGREEMENT FOR A TEMPORARY CERTIFICATE OF OCCUPANCY

**RESOLUTION 2022-25**

RESOLUTION OF THE BOROUGH OF WASHINGTON TO KEEP THE TEMPORARY VACANCY IN THE OFFICE OF MAYOR OPEN UNTIL THE VACANCY IS FILLED IN THE 2022 GENERAL ELECTION

**ORDINANCE**

**VOUCHERS**

**REPORTS**

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**COUNCIL REMARKS**

**EXECUTIVE SESSION-if needed**

1. Executive discussion regarding cannabis zoning standards
2. Contractual-Ray Rice
3. Attorney Advice

**ADJOURNMENT** \_\_\_\_\_ P.M.

**RESOLUTION 2202-21**  
**RESOLUTION AUTHORIZING 2022 PROFESSIONAL SERVICES CONTRACT WITH**  
**WINEGAR WILHELM, GLYNN & ROEMERSMA FOR PUBLIC DEFENDER**  
**SERVICES**

**WHEREAS**, the Borough Council of the Borough of Washington has a need to contract the services of a Municipal Attorney as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4 or 20.5 as appropriate; and

**WHEREAS**, the Purchasing Agent has certified that the costs of this contract may or will exceed \$17,500; and

**WHEREAS**, the anticipated term of this contract is one (1) year or at the discretion of the Borough Council; and

**WHEREAS**, for budgetary purposes, the Borough Council of the Borough of Washington would like to have this contract reflect a not to exceed amount of the 2022 adopted budget amount, excluding any escrow related services and;

**WHEREAS**, Winegar Wilhelm Glynn & Roemersma has completed and submitted a Business Entity Disclosure Certification which certifies that Winegar Wilhelm, Glynn & Roemersma has not made any reportable contributions to a political or candidate committee in the Borough of Washington in the previous one year, and that the contract will prohibit Winegar Wilhelm Glynn & Roemersma from making any reportable contributions through the term of the contract, and

**WHEREAS**, the Chief Financial Officer will certify to the Borough Clerk the availability of funds on an as-needed basis at the time when the Borough needs the services provided by Winegar Wilhelm Glynn & Roemersma Law Offices

**NOW THEREFORE, BE IT RESOLVED** that the Borough Council of the Borough of Washington to enter into a contract with Winegar Wilhelm Glynn & Roemersma Law Offices as described herein; and,

**BE IT FURTHER RESOLVED** that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and

**BE IT FURTHER RESOLVED** that notice of this appointment will be published as required by law within ten days of the passage of this resolution; and

**BE IT FURTHER RESOLVED**, that copies of this resolution be forwarded to the Chief Financial Officer and Winegar Wilhelm Glynn & Roemersma Law Offices

**RESOLUTION 2022-22**

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**A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE**

**As per N.J.S.A-.54:5**

**KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS**, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on October 7, 2021 to BALA PARTNERS LLC, P.O. Box 303, Pottersville, NJ 07979, in the amount of \$173.60 for taxes or other municipal liens assessed for the year 2020 in the name of ANDERSON, MICHAEL S & SAMANTHA as supposed owners, and in said assessment and sale were described as 5 SUNRISE TERRACE, Block 43 Lot 4, which sale was evidenced by Certificate #21-00026 and

**WHEREAS**, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 1/6/2022 and before the right to redeem was cut off, as provided by law, Investors Bank claiming to have an interest in said lands, did redeem said lands claimed by BALA PARTNERS LLC by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$941.07 which is the amount necessary to redeem Tax Sale Certificate #21-00026.

**NOW THEREFORE BE IT RESOLVED**, on this 18<sup>th</sup> day of January, 2022 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to BALA PARTNERS LLC, P.O. Box 303, Pottersville, NJ 07979 in the amount of **\$2,141.07** (This consists of \$941.07 Certificate Amount redeemed + \$1,200.00 Premium).

**BE IT FURTHER RESOLVED**, that the Tax Collector is authorized to cancel this lien on Block 43 Lot 4 from the tax office records.

**RESOLUTION 2022-24**

**CASH PERFORMANCE BOND AGREEMENT FOR A**

**TEMPORARY CERTIFICATE OF OCCUPANCY**

This Cash Bond Agreement is entered into on January 18, 2022 between OZE JADE, LLC, a limited liability company of the State of New Jersey, with an address at \_\_\_\_\_ (the "Developer and the Borough of Washington, in the County of Warren, State of New Jersey (the "Borough").

**WHEREAS**, the Developer is the owner of property designated as Block 95, Lots 1 and 31 on the Tax Maps of the Borough of Washington, Warren County, New Jersey (the "Property"); and

**WHEREAS**, the Borough of Washington Land Use Board (the "Board") granted Preliminary and Final Site Plan Approval to permit the development of a fast-food restaurant on the Property (the "Project") by Resolution dated November 18, 2019 (the "Resolution"); and

**WHEREAS**, the Resolution requires the Developer to complete certain site

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improvements prior to receiving a Certificate of Occupancy; and

**WHEREAS**, due to material shortages caused by the ongoing COVID-19 pandemic, the Developer was unable to complete the following site improvements: three (3) ramps, and two (2) crosswalks, as noted on the Construction Plans attached hereto as Exhibit A; and

**WHEREAS**, all other site improvements have been completed in accordance with the Resolution; and

**WHEREAS**, Developer has agreed that the ramps and cross walks will be installed no later than April 15, 2022; and

**WHEREAS**, the Borough Engineer has determined the cost of the improvements to be \$39,860 as set forth on the estimate attached hereto as Exhibit B; and

**WHEREAS**, the Borough Council agrees that the Developer shall be able to receive a Temporary Certificate of Occupancy for the Project pending the installation of the above-referenced site improvements, provided a performance bond is provided; and

**NOW, THEREFORE**, all parties hereto do hereby agree as follows:

A. The Developer hereby furnishes a performance bond in the amount of \$47,832 (which represents 120 percent of the cost of the improvements, as certified by the municipal engineer pursuant to Exhibit B), guarantying full and faithful completion of improvements noted on the Construction Plans attached hereto as Exhibit A, in lieu of completing the required improvements prior to the issuance of a Temporary Certificate of Occupancy.

B. Upon signing of this Agreement, Developer shall deposit with the Borough the amount of \$47,832 as security for Developer's timely completion of the improvements noted in Exhibit A. The Borough shall deposit the stated sum in an interest bearing account for the term of this Agreement.

C. This Agreement and bond shall remain in full force and effect until such time as all improvements covered by the bond have been approved or accepted by resolution of the Borough Council, except that in those instances where some of the improvements are approved or accepted by resolution of the Borough Council upon certification by the Borough Engineer, partial release from the bond shall be granted in accordance with N.J.S.A. 40:55D-53. The amount of the bond remaining shall be sufficient to secure provision of the improvements not yet approved; provided, however, that the municipality may require that 30 percent of the amount of the bond be retained to ensure completion of all improvements. This bond shall be deemed to be continuous in form and shall remain in full force and effect until the improvements are accepted by the Borough and the bond is released, or until default is declared, or until the bond is replaced by another bond meeting applicable legal requirements. Upon approval or acceptance of all improvements by the Borough, or upon replacement of this bond by another bond, liability under this bond shall cease. Upon approval or acceptance of some, but not all, of the required improvements by Borough, partial release from the

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bond shall be granted in accordance with N.J.S.A. 40:55D-53; provided, however, that the portion of the bond amount sufficient to secure completion of the improvements shall continue in effect and the municipality may retain 30 percent of the bond amount posted in order to ensure such completion.

D. Upon deposit of the funds hereunder, the Borough Engineer shall recommend the issuance of a Temporary Certificate of Occupancy for the Project, provided that all other improvements pursuant to the Resolution and Redeveloper's Agreement have been completed and accepted by the Borough.

E. *Default; Failure to Complete Improvements.*

1. If the improvements subject to this bond are not completed by April 15, 2022, the Borough, without further written notice to the Developer shall revoke the Temporary Certificate of Occupancy for the Project and all operations on the Property shall immediately cease.

2. If the improvements subject to this bond are not completed by April 15, 2022, the Borough, without further written notice to the Developer may utilize the funds deposited by Developer hereunder to complete the improvements. Amounts chargeable against the bond shall not only include the direct cost of completion or correction of the required improvements, but also, procurement costs, reasonable attorneys' fees, and inspection fees. The Borough's completion of the improvements shall be done in compliance with the Local Public Contracts Law.

F. This bond shall inure to the benefit of the Borough only and no other party shall acquire any rights hereunder.

G. *Indemnification / Hold Harmless.*

In consideration of having a Temporary Certificate of Occupancy prior to the completion of the improvements noted on Exhibit A, in order for the fast-food restaurant to begin operations, the Developer agrees to indemnify, defend and hold harmless the Borough and its officers, agents, members, employees and assigns from any and all liability, demands, claims, suits, losses, injuries, damages, judgements, expenses, costs and attorneys' fees arising out of the use of the Property and the Project. This includes, but is not limited to any claims made under the Americans with Disabilities Act, 42 U.S.C. §§12101 et seq. (1990).. The Developer understands that this Hold Harmless Agreement also provides the Borough be indemnified from any and all liability, claims, demands, damages, judgements expenses and costs of any kind resulting from the omissions from any guest, participant, visitor or other person at the Property,

Developer does further and specifically agree to indemnify and hold harmless the Borough, its agents, servants, employees, independent contractors and Borough Engineer against all losses, costs, damages, and expenses in connection therewith relating to the performance of any obligation of Developer not completed by it.

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H. Developer does hereby grant, bargain, and convey to Borough a license, privilege, easement, and other right deemed necessary by law to the Borough, its agents, servants and employees and contractors and Borough Engineer to go upon the Property or have a right thereto to do any act or perform any task it may hereunder undertake upon the Property upon default by Developer of the terms hereof.

**RESOLUTION 2022-25**  
**RESOLUTION OF THE BOROUGH OF WASHINGTON TO KEEP THE TEMPORARY**  
**VACANCY IN THE OFFICE OF MAYOR OPEN UNTIL**  
**THE VACANCY IS FILLED IN THE 2022 GENERAL ELECTION**

**WHEREAS**, on December 28, 2021, Mayor David Higgins (“Mayor Higgins”) resigned from his position of Mayor for the Borough of Washington; and

**WHEREAS**, the term of the office held by Mayor Huggins expires, as a matter of law, on December 31, 2024; and

**WHEREAS**, the resignation of Mayor Higgins created a vacancy in the office of Mayor for the Borough of Washington; and

**WHEREAS**, the Borough of Washington is a municipality which holds general elections for the offices of Mayor and members of Council; and

**WHEREAS**, New Jersey Statute N.J.S.A. 40A:16-5(b) provides, in pertinent part, that if a vacancy occurs in accordance with N.J.S.A. 40A:16-3 and if such a vacancy occurs at any time prior to September 1 of the next to the last year of the officer whose office has become vacant, the vacancy shall be filled for its unexpired term at the next general election to be held not less than 60 days after the occurrence of the vacancy; and

**WHEREAS**, New Jersey Statute N.J.S.A. 40A:16-5(b) further provides that the governing body may fill the vacancy temporarily by appointment as hereinafter provided; and

**WHEREAS**, the Court in Linden Democratic Committee v. City of Linden, 2021 N.J. Super LEXIS 110 (App Div. 2021) ruled that N.J.S.A. 40A:16-5(b) vests the decision to appoint an interim successor to fill a temporary vacancy with the governing body in its discretion.

**NOW, THEREFORE, BE IT RESOLVED** by the governing body of the Borough of Washington that, pursuant to N.J.S.A. 40A:16-5(b), the governing body, in its discretion, elects not to fill the office of Mayor temporarily by appointment; and

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**BE IT FURTHER RESOLVED**, that the office of Mayor that has become vacant by the resignation of Mayor Higgins is to be remain temporarily vacant during the interim period from the time the vacancy occurred until the time of the 2022 general election.